

VZCZCXRO8766
PP RUEHMA RUEHPA
DE RUEHCO #0452/01 2111718
ZNR UUUUU ZZH
P 291718Z JUL 08
FM AMEMBASSY COTONOU
TO RUEHC/SECSTATE WASHDC PRIORITY 0460
INFO RUEHZK/ECOWAS COLLECTIVE
RUEHFR/AMEMBASSY PARIS 1296
RUEHLO/AMEMBASSY LONDON 0365
RUEHLMC/MILLENNIUM CHALLENGE CORP WASHDC

UNCLAS SECTION 01 OF 02 COTONOU 000452

SENSITIVE
SIPDIS

DEPT FOR AF/W DORSEY LOCKART AND DON HEFLIN
LONDON FOR PETER LORD
PARIS FOR BKANEDA

E.O. 12958: N/A
TAGS: [PGOV](#) [PREL](#) [KMCA](#) [BN](#)
SUBJECT: BENIN: PRESIDENT YAYI CIRCUMVENTS IMPASSE IN NATIONAL
ASSEMBLY TO MOVE ON URGENT LEGISLATION

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REFTEL: COTONOU 450

1.(U) SUMMARY: On July 28 President Yayi invoked his power under Benin's Constitution to sign into law a series of bills which the National Assembly's opposition deputies refused to pass by continuously adjourning parliamentary sessions without taking action. The bills President Yayi signed included a coastal prevention project for which donor funds would expire by July 31 along with an amended investment code offering development opportunities. This decision will likely worsen the tension between President Yayi's coalition and the opposition bloc at the National Assembly. END SUMMARY.

2.(U) On July 28, following weeks of deadlock at the National Assembly (Reftel) President Yayi exercised his constitutional prerogative to approve 4 bills that the National Assembly's deputies refused to adopt. President Yayi used Article 68 of the Constitution which provides that when the institutions of the Republic, the independence of the Nation, the national integrity or the implementation of international engagements are threatened in a serious and immediate way and that the smooth functioning of the government is threatened or interrupted, the President of the Republic, after consultations with the Presidents of the National Assembly and Constitutional Court, can sign laws without the National Assembly's approval. Note: Former Presidents Kerekou and Soglo resorted in the past to this kind of order when deputies voted down their proposed budgets. End Note. Article 69 of the constitution entitles the National Assembly to set the time limit beyond which the President can no longer take such actions.

3.(U) The bills included three loan agreements for coastal erosion prevention signed respectively with the OPEC Fund for Development, the Republic of Kuwait and the Saudi Fund, which together are worth roughly USD 79 million (CFA 32 billion), and a bill amending the investment code and the regulatory framework for outstanding investments. In a public statement, President Yayi explained that he decided to use his power to sign the bills into law after legislators had repeatedly postponed voting on the bills as the deadline set by the donors for approval is July 31 and that it would take three days for the Supreme Court to clear the bills after he acted. According to him, the government would lose a significant development opportunity if it did not ratify these agreements on time.

4.(U) Previous to Yayi's July 28 decision, Joseph Gnonlonfoun, a political leader in the pro-Yayi FCBE coalition filed an appeal on July 25 before the Constitutional Court regarding the deputies' repeated adjournments of parliamentary sessions without action. The Constitutional Court ruled that by adjourning without considering

the bills the National Assembly had violated its constitutional obligation to consider legislation. The Constitutional Court's ruling probably encouraged President Yayi to use his constitutional prerogative to sign these bills into law.

5.(U) While some living in the areas affected by coastal erosion applauded the decision, President Yayi's action received mixed reactions from political observers and sparked legal debates over whether or not the bills rose to the level which required the President to use his powers under Article 68. Some observers argued that President Yayi should have engaged in further negotiations with the opposition to get the bills passed while others said that the president had no time for further discussions and made the right choice. A source close to the G13 leadership (one of the larger opposition groupings in the National Assembly) told post that President Yayi's decision would make life even harder for Yayi at the National Assembly.

16. (SBU) On July 29, President Yayi convened the diplomatic corps to explain his decision, highlighting the July 31 deadline for approval of the donor-funded erosion project. He insisted that the action related only to the subject projects and was not intended as a means to achieve "political reform." The Ambassador and her French counterpart welcomed the briefing, noting the potential negative implications of such action in a democracy and encouraged dialogue and negotiation.

7.(SBU)COMMENT: While President Yayi circumvented, for now, the opposition majority at the National Assembly this will almost certainly pave the way for fiercer political battles. It is likely that opposition deputies will invoke their right under Article 69 to limit President Yayi's power to make laws without their approval and then continue with their opposition to his program. The National Assembly is due to consider legal reforms essential for MCA-Benin's Access to Justice and Access to Land programs this fall which could

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provide another opportunity for a showdown between the deputies in the National Assembly and Yayi. As new parliamentary elections will not be called until 2012 success for President Yayi in the National Assembly demands that he build a coalition with members of some groups which now vehemently oppose him. END COMMENT.

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